

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT,) )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )

Plaintiff, )

vs. ) 4:05-CV-00329-TCK-SAJ

TYSON FOODS, INC., et al, )

Defendants. )

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THE VIDEOTAPED DEPOSITION OF  
CLAUD RUTHERFORD, produced as a witness on behalf  
of the Plaintiff in the above styled and numbered  
cause, taken on the 1st day of August, 2008, in the  
City of Fayetteville, County of Washington, State of  
Arkansas, before me, Lisa A. Steinmeyer, a Certified  
Shorthand Reporter, duly certified under and by  
virtue of the laws of the State of Oklahoma.

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**918-587-2878**

**EXHIBIT**

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1 farms?

2 A The period of time I went from November of '01  
3 until November of '03. Let me back up a minute. I  
4 think that wasn't November I left them. I left them  
5 in June. 10:09AM

6 Q June of '01?

7 A June of '03. That's when I worked for Latco.  
8 I had the months confused.

9 Q All right. Prior to the duties associated  
10 with the ten-farm construction project, what were 10:09AM  
11 your duties for Simmons?

12 A For the first nineteen years I was with  
13 Simmons, I was vice president of live production,  
14 and then the last -- from that period up until 2000  
15 even, 2000 November I did environmental work. 10:10AM

16 Q So your duties then started in 1996 for  
17 environmental work, roughly nineteen years from '77?

18 A No. I actually -- in my job as vice president  
19 I also handled environmental work starting back in  
20 the '80s. It was part of the responsibility. It 10:10AM  
21 wasn't broke out separate, the environmental from  
22 live production.

23 Q All right, and what part of the '80s?

24 A Late '80s.

25 Q So from the late '80s until actually the -- 10:10AM

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1 Q Yeah. Maybe I can ask it this way: What time  
2 frame was it that Simmons first became concerned  
3 with regard to phosphorus and its impacts on water  
4 quality?

5 MR. HIXON: Object to the form. 10:15AM

6 A What did he say?

7 Q He can object and we just don't listen to him.  
8 She writes it down.

9 A I can't hear real well.

10 Q He'll get his turn later today, but they will 10:15AM  
11 make objections from time to time.

12 A I was aware in late '80s that there was a  
13 report came out about the concentration in northwest  
14 Arkansas. I can't remember the guy's name that  
15 published it, but it was brought to our attention at 10:15AM  
16 that time that we needed to look and make sure what  
17 we were doing.

18 Q Was that gentleman's name Martin Maner?

19 A I think that's correct.

20 Q Did you become involved in Governor Clinton's 10:15AM  
21 task force on animal waste?

22 A Yes, I did.

23 Q And was the period of time that that task  
24 force operated somewhere around '90 to '93?

25 A That's correct. 10:16AM

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1 business conducting the animal task force for  
2 Governor Clinton that you referenced the publication  
3 that Mr. Maner speaks to here, Ground Use Effects on  
4 Groundwater Quality and Carbonate Rock Terrain dated  
5 1987? 11:35AM

6 A It's written out here in his report.

7 Q My question is, do you recall whether or not  
8 that was available to you as the committee members?

9 A I don't recall.

10 Q When you talked about earlier that elimination 11:35AM  
11 of dead burial pits for carcasses, was the kind of  
12 land that's located in the Eucha-Spavinaw and  
13 Illinois River watersheds such that leaching can  
14 readily occur?

15 A Let me -- repeat that one more time. I'm not 11:36AM  
16 comprehending what you're asking.

17 Q Okay. Generally the rocky terrain that exists  
18 in the Eucha-Spavinaw and Illinois River watershed,  
19 you're familiar with that terrain, are you not?

20 A Yes, I am. 11:36AM

21 Q And isn't it a fact, sir, that that kind of  
22 terrain was found to be a problem for leaching, such  
23 as dead burial pits, into the groundwater underneath  
24 it?

25 A That it could -- water could pass through the 11:36AM

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1 rock formations, yes.

2 Q Okay, and that was known by the animal task  
3 force, governor's animal task force?

4 A It was brought to our attention, the ones who  
5 didn't know. 11:36AM

6 Q Okay, and that was something you took into  
7 consideration when you conducted your committee  
8 work, did you not?

9 A Yes, I'm sure.

10 Q All right. Sir, is it true that Simmons kept 11:37AM  
11 records from around 1986 to 2002 where all the waste  
12 from its company-operated farms was disposed of?

13 A Yes.

14 Q And that was kept by township, section and  
15 range, the location where it went; is that true? 11:37AM

16 A I believe that's right.

17 Q And who was responsible for keeping those  
18 records?

19 A It would be someone there in the office of  
20 Southwest City, and when the people came in and paid 11:37AM  
21 for the litter, they had to show us where it went  
22 and had to have it.

23 Q And when you left Simmons, were those records  
24 still being kept?

25 A As far as I know, they are. 11:38AM

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